

## MINUTES

### ALCOHOL AND TOBACCO COMMISSION

DECEMBER 7, 2010

#### CALL TO ORDER/NOTING OF QUORUM

Acting Chairman Huskey called the meeting to order and noted the quorum and the attendance. Present were Vice Chairman Johnson, Commissioner Sturtz and Commissioner Guthrie. Major Poindexter, Lieutenant McKinney and Executive Secretary Dunsmore were also in attendance. Acting Chairman Huskey also introduced Officer Scott Bedwell as the new Trade Practice Liaison for the agency.

Nicole Upano, Trevor Vance, Alex Intermill, Debbie Rolfson, Connie Vickery, Jeff McKean, Lisa McKinney and Bart Herriman were present as observers.

#### DISPOSITION OF MINUTES

Commissioner Sturtz moved to approve the minutes that were submitted for the November 16, 2010 meeting. Commissioner Guthrie seconded. The motion was unanimously approved.

#### HEARING JUDGE'S RECOMMENDATIONS

PARTIES' AGREED DISPOSITIONS – Vice Chairman Johnson moved to approve the parties' agreed dispositions that were submitted for the December 7, 2010 meeting. Commissioner Sturtz seconded. The motion was unanimously approved.

DL45-26758 WALGREEN CO – Hearing Judge Dunsmore stated this application was recommended to be denied by the Lake County Local Board. The Commission upheld the recommendation. The applicant filed a timely notice of appeal and the matter was set for hearing. The Hearing Judge now submits his proposed findings of fact and conclusions of law for recommendation to the Commission, along with objections that were filed by the applicant.

Vice Chairman Johnson moved to uphold the Hearing Judge's recommendation and deny the new application. Commissioner Guthrie seconded. The motion was unanimously approved.

DL45-26761 WALGREEN CO – Hearing Judge Dunsmore stated this application was recommended to be denied by the Lake County Local Board. The Commission upheld the recommendation. The applicant filed a timely notice of appeal and the matter was set for hearing. The Hearing Judge now submits his proposed findings of fact and conclusions of law for recommendation to the Commission, along with objections that were filed by the applicant.

Vice Chairman Johnson moved to uphold the Hearing Judge's recommendation and deny the new application. Commissioner Guthrie seconded. The motion was unanimously approved.

### **CONSIDERATION OF APPLICATIONS**

Commissioner Sturtz moved to approve and incorporate by reference these lists of permits for renewal, which have been recommended by local boards and reviewed by our staff with the authority of the Commission. Commissioner Guthrie seconded. The motion was unanimously approved.

Commissioner Sturtz moved to approve and incorporate by reference these lists of permit applications for a new permit, which includes the tabled applications, or applications for changes in location or ownership or both of existing permits, which have been recommended by local boards and reviewed by at least two Commissioners. Commissioner Guthrie seconded. The motion was unanimously approved.

Commissioner Sturtz moved to approve and incorporate by reference these lists of permit applications for catering. Commissioner Guthrie seconded. The motion was unanimously approved.

Commissioner Sturtz moved to approve and incorporate by reference these lists of permits to be placed in escrow for not more than five years, which have been reviewed and recommended by a Commissioner as appropriate for escrow. Commissioner Guthrie seconded. The motion was unanimously approved.

Four hundred fifty-three (453) permits approved for renewal, sixty-eight (68) new and/or transfer permits approved, ten (10) permits approved for catering, seven (7) permits approved for first year escrow, four (4) permits approved for second year escrow, two (2) permits approved for third year escrow, two (2) permits approved for fourth year escrow and three (3) permits approved for fifth year escrow.

### **RENEWAL LETTERS AND WAIVER OF FEES**

Vice Chairman Johnson moved to approve the renewal letters and the waiver of fees for letters of extension for the preceding weeks. Commissioner Sturtz seconded. The motion was unanimously approved.

### **APPLICATIONS FOR DISCUSSION**

RR34-14780 JAI BRIGHT HOTELS OF ANDERSON, INC. – Commissioner Guthrie stated the permittee is requesting this type 214 permit be converted to a type 215, due to annexation into the city limits.

Commissioner Guthrie moved to approve the conversion. Commissioner Sturtz seconded. The motion was unanimously approved.

RC15-16418 FRATERNAL ORDER OF EAGLES - Commissioner Guthrie stated the permittee requests the Commission allow the withdrawal of the transfer of location that was filed and approved.

The new location is not ready for operation and will not be for some time. The permittee would like to operate at the old location and in the future may file for the transfer of location.

Commissioner Guthrie moved to approve this request. Vice Chairman Johnson seconded. The motion was unanimously approved.

RR13-27382 EL CAMPESINO 2 CORP. – Commissioner Guthrie noted this is a new type 103 application with the local board voting two (2) to one (1) to disapprove.

Commissioner Guthrie stated the Commission received a letter from one of the local board members requesting to change the vote personally given by them regarding this application.

Commissioner Guthrie moved to remand this application to the local board for reconsideration. Commissioner Sturtz seconded. The motion was unanimously approved.

DL13-27375 KROGER LIMITED PARTNERSHIP I - Commissioner Guthrie noted this is a new type 115 application with the local board voting three (3) to zero (0) to disapprove.

Commissioner Guthrie moved to approve the local board's recommendation to deny the new permit. Commissioner Sturtz seconded. The motion was unanimously approved.

DL71-27279 L AND P PETROLEUM, INC. – Commissioner Guthrie noted this is a new type 115 application with the local board voting two (2) to two (2).

Commissioner Guthrie stated the local board feels this permit would have a negative impact on the community because of the history of tobacco violations and the owner's unwillingness to abide by the rules.

Commissioner Guthrie moved to deny the new permit. Vice Chairman Johnson seconded. The motion was unanimously approved.

RR12-01478 CHAD MOORE, INC. – Commissioner Guthrie noted this is a type 210 renewal application with the local board voting three (3) to one (1) to disapprove.

Commissioner Guthrie stated the local board feels this establishment has become a public nuisance.

Commissioner Guthrie moved to uphold the local board and deny the renewal. Commissioner Sturtz seconded. The motion was unanimously approved.

DL12-27429 ALDI INDIANA LP – Commissioner Guthrie noted this is a new type 115 application with the local board voting four (4) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board’s recommendation and approve the new permit.

RR45-19528 SPACES, LLC – Commissioner Guthrie noted this is a type 210 transfer of ownership with the local board voting four (4) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board’s recommendation and approve the transfer. Commissioner Sturtz seconded. The motion was unanimously approved.

RR18-27144 MAINES PRIVATE PLACE, INC. – Commissioner Guthrie moved to table this matter to see if the applicant files a withdrawal. Vice Chairman Johnson seconded. The motion was unanimously approved.

### **INACTIVE FILES**

INACTIVE FILES- Vice Chairman Johnson moved to make forty-two (42) permits inactive. Thirty-six (36) permits are not subject to auction and six (6) permits are subject to auction. Commissioner Guthrie seconded. The motion was unanimously approved.

RR82-05077 NO RUZ GROTTMOYER - Commissioner Guthrie stated this permit was made inactive in error. The file was misplaced, so it appeared renewals were not filed. So, the file was made inactive.

Commissioner Guthrie moved to approve the reactivation. Commissioner Sturtz seconded. The motion was unanimously approved.

### **OLD BUSINESS**

No Old Business

### **NEW BUSINESS**

RR46-88153 WWW, INC., D/B/A HANNA HUB – Vice Chairman Johnson stated this matter was set for a violation hearing on December 13, 2010. Hearing Judge Dunsmore recused himself because of a possible conflict. The Vice Chairman agreed to be the hearing judge, but stated it will take Commission action to become official.

Commissioner Guthrie moved to accept Vice Chairman Johnson as the hearing judge. Commissioner Sturtz seconded. The motion was unanimously approved.

### **POLICY DETERMINATIONS**

No Policy Determinations

## **ANNOUNCEMENTS**

LEBAMOFF VS. SNOW – Acting Chairman Huskey stated the court has ruled in favor of granting a summary judgment for Snow in this matter. The official document will be on the ATC website for those interested in reading it in its entirety.

## **ADJOURNMENT**

Commissioner Sturtz moved to adjourn the meeting. Commissioner Guthrie seconded. The motion was unanimously approved.

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

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MARK S. MASSA, CHAIRMAN

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DAVID JOHNSON, VICE CHAIR

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DALE STURTZ, COMMISSIONER

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FRANK GUTHRIE, COMMISSIONER